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V.C.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/115,229 07/14/98 SCHEELLEN

A SLVAY-3741.0

EXAMINER

IM62/0127

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1100 NEW YORK AVENUE N W
WASHINGTON DC 20005-3955

DYE, R

ART UNIT

PAPER NUMBER

1772

DATE MAILED:

01/27/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/115,229

Applicant(s)
Schefflen et al.

Examiner
Rena L. Dye

Group Art Unit
1772



☒ Responsive to communication(s) filed on Jan 3, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-15 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-15 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Introduction

1. Upon a further review of the prosecution history and Applicant's arguments of record the finality of the last office action has been withdrawn. Rejections of record as set forth in the last office action (paper no.8), not repeated herein, have been withdrawn.

Arrangement of the Specification

2. Applicant's specification lacks headings. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

The following order or arrangement is preferred in framing the specification and, except for the reference to "Microfiche Appendix" and the drawings, each of the lettered items should appear in upper case, without underlining or bold type, as section headings.

- (a) Title of the Invention.
- (b) Cross-References to Related Applications.
- (c) Statement Regarding Federally Sponsored Research or Development.
- (d) Reference to a "Microfiche Appendix" (see 37 CFR 1.96).
- (e) Background of the Invention.
 - 1. Field of the Invention.
 - 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) Brief Summary of the Invention.
- (g) Brief Description of the Several Views of the Drawing(s).
- (h) Detailed Description of the Invention.
- (I) Claim or Claims (commencing on a separate sheet).
- (j) Abstract of the Disclosure (commencing on a separate sheet).
- (k) Drawings.
- (l) Sequence Listing (see 37 CFR 1.821-1.825).

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins et al. (5,049,411).

Jenkins et al. teaches a high density polyethylene (HDPE) composition comprising from about 50 to about 95 weight percent of HDPE and from about 1 to about 30 weight percent of a filler which may be talc (Abstract). The term high density generally refers to densities in the range of about 0.94 to 0.965 g/cm³. The term polyethylene as used herein includes homopolymers of ethylene and copolymers of at least about 85 weight percent ethylene with up to about 15 weight percent of one or more C₃ to C₁₀ alpha-olefins, such as 1-butene, 1-hexene, etc. Preferably the copolymers include from about 0.1 to about 3 weight percent of the alpha-olefin comonomer (column 1, lines 56-66). The talc is employed as a filler in the composition. In particular when used with HDPE the talc is preferably in the form of particles of a size in the range of about 0.5 to 50 microns. The talc is employed in amounts ranging from about 1 to about 30 weight percent.

Jenkins et al. further teach shaping of the composition into an article such as a packaging material, or an envelope (column 1, lines 32-36). The composition is formed into a seamless tube by extrusion and then later formed into an envelope (column 2, line 50 to column 3, line 10).

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Since Jenkins et al. teaches that which appears to be identical to that recited in the present claims, with respect to HDPE, it is the Examiner's position that the recited melt flow would be inherent. The recited particle size distribution between 0.2 and 15 microns, and mean particle size between 1 and 5 microns would be well within the disclosed particle size range taught by Jenkins et al.

Since Jenkins et al. teach talc merely used as a filler, it would have been obvious to one having ordinary skill in the art to have used less filler if e.g. manufacturing costs were not an issue. Since Jenkins et al. teaches talc having a lower end range of 1%, the Examiner would like to note that only a very slight decrease in the weight % of talc would fall within the presently claimed range, i.e. .94 wt%, .95 wt%, etc.

5. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooster et al. (5,631,069).

Wooster et al. teaches a polyethylene composition used to mold articles. The molded material is comprised of high molecular weight linear polyethylene and a substantially linear ethylene/ α -olefin interpolymers. The material has a density in the range of about 0.923 to about 0.95 g/cm³ and has excellent impact resistance (Abstract). The polyethylene material can be molded into articles, such as pipes, tubes, or molded parts (column 1, lines 23-31). The molded material can be made produced from blends of a) high molecular weight high density polyethylene (HDPE) and b) linear low density polyethylene (LLDPE), VLDPE, etc. (column 4, lines 1-11).

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Both HDPE and LLDPE are prepared in a similar manner where ethylene is copolymerized with an α -olefin such as butene or hexene (column 4, lines 47-62). Although not generally required the molded material can also contain additives to enhance antiblocking and coefficient of friction characteristics including talc (column 14, lines 13-29). The molded polyethylene material can be produced by known processes, for example by casting processes, compression molding, or preferably, by extrusion (column 13, lines 45-48). Although not expressly taught, it is the Examiner's position that the teaching of injection molding is a well known and conventional process for making pipes, and would have been an obvious method for making the disclosed articles.

Since Wooster et al. teaches that it is known to include additives, such as talc, in molded polyethylene compositions, it would have been obvious to one having ordinary skill in the art to have included the talc in an effective amount to have imparted antiblocking and coefficient of friction characteristics. The determination of such amount of talc to impart such properties is deemed to be routine optimization and well within the level of skill of the ordinary artisan. Furthermore, it would have been obvious to one having ordinary skill in the art to have used more or less of the talc additive if manufacturing costs were of an issue.

Although Wooster et al. specifically fails to teach the molding of pipe couplings from the polyethylene composition, pipe couplings are *prima facie* obvious over the teaching of pipe. Pipes and couplings are designed to work in the same system, and a pipe may well be used as a coupling, i.e. if it is used as an intermediate between two pipes it has "coupled" the two pipes.

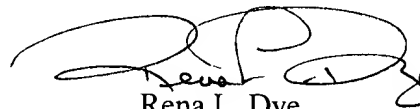
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Since Wooster et al. teaches that which appears to be identical to that recited in the present claims, with respect to the presently claimed polyethylene, it is the Examiner's position that the recited melt flow would be inherent. The recited particle size distribution between 0.2 and 15 microns, and mean particle size between 1 and 5 microns would be well within the teaching of the reference since Wooster et al. teaches talc as an additive.

Information Disclosure Statement

6. The Information Disclosure Statement filed on April 8, 1999 has been considered and made of record in the file because it includes references which are English language equivalents of EP 0278470 and EP 0060178 which were included in a previously filed European search report filed in this application on July 14, 1998.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Dye whose telephone number is (703) 308-4331.



Rena L. Dye
Primary Examiner
Tech Center 1700

R. Dye
January 19, 2000